

AMENDED IN ASSEMBLY MAY 19, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1742

**Introduced by Committee on Revenue and Taxation (Chavez
(Chair), Laird, Leno, and Simitian)**

March 11, 2003

An act to amend Sections 19120, 19368, 19411, and 23114 of, to amend and renumber Section 24328 of, and to add Section 19520 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1742, as amended, Committee on Revenue and Taxation. Income and corporation taxes: interest: abatement: administration: minimum franchise tax.

Existing income tax laws provide for interest at a specified rate with respect to refunds and credits.

This bill would provide that any abatement of interest shall be made with reference to a specified law.

Existing law requires the Franchise Tax Board to administer collections for various nontax programs, including the child support collections program. Existing law, in conformance with the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), requires employers to report the name, address, and social security number of a new hire to the Employment Development Department with 20 days following the date the new employee was

hired. One of the purposes of the PRWORA is to locate noncustodial parents for the purpose of enforcing child support orders.

This bill would authorize the Franchise Tax Board to use the information required by PRWORA, among other laws, to be reported to the Employment Development Department for the purpose of enforcing collections under nontax collection programs that the Franchise Tax Board is required to administer.

The Corporation Tax Law imposes a franchise tax on a corporation that incorporates or commences doing business in this state. The franchise tax is measured by the income earned by the corporation during the taxable year, but not less than the minimum franchise tax of \$800. Existing law provides that the minimum franchise tax does not apply to the first taxable year of a corporation that incorporates or qualifies to do business on or after January 1, 2000. Existing law exempts a corporation from the franchise tax measured by the income earned by a corporation, if that corporation was inactive and if that corporation's taxable year was 15 days or less.

This bill would provide, for purposes of the minimum franchise tax, that an inactive corporation's first taxable year of 15 days or less will not be considered as that corporation's first taxable year.

The Corporation Tax Law provides that a scholarshare trust is established and maintained as a qualified state tuition program, as provided.

This bill would make a technical change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19120 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 19120. Any portion of any amount that has been erroneously
- 4 refunded and that is recoverable by suit pursuant to Section 19411
- 5 shall bear interest at the adjusted annual rate established pursuant
- 6 to Section 19521 from the date of the payment of the refund.
- 7 Abatement of interest under this section is governed by
- 8 subdivision (c) of Section 19104.
- 9 SEC. 2. Section 19368 of the Revenue and Taxation Code is
- 10 amended to read:



19368. If the Franchise Tax Board makes or allows a refund or credit that it determines to be erroneous, in whole or in part, the amount erroneously made or allowed may be assessed and collected after notice and demand pursuant to Section 19051 (pertaining to mathematical errors), except that the rights of protest and appeal shall apply with respect to amounts assessable as deficiencies without regard to the running of any period of limitations provided elsewhere in this part. Notice and demand for repayment must be made within two years after the refund or credit was made or allowed, or during the period within which the Franchise Tax Board may mail a notice of proposed deficiency assessment, whichever period expires the later. Abatement of interest on an amount due under this section is governed by subdivision (c) of Section 19104.

SEC. 3. Section 19411 of the Revenue and Taxation Code is amended to read:

19411. (a) The Franchise Tax Board may recover any refund or credit or any portion thereof that is erroneously made or allowed, together with interest at the adjusted annual rate established pursuant to Section 19521, in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California within whichever of the following periods expires the later:

(1) Two years after the refund or credit was made.

(2) During the period within which the Franchise Tax Board may mail a notice of proposed deficiency assessment.

(b) Abatement of interest under this section is governed by subdivision (c) of Section 19104.

SEC. 4. Section 19520 is added to the Revenue and Taxation Code, to read:

19520. Unless otherwise specifically provided, if a provision of law, including Section 1088.5 and Section 1088.8 of the Unemployment Insurance Code, authorizes the use of information for tax enforcement purposes, the term “tax enforcement” includes the collection of any amount referred to the Franchise Tax Board for collection under a provision of law that authorizes the Franchise Tax Board to collect that amount in the same manner as an unpaid tax liability is collected by the Franchise Tax Board.

SEC. 5. Section 23114 of the Revenue and Taxation Code is amended to read:

1 23114. (a) A corporation shall not be subject to the taxes
2 imposed by this chapter if the corporation did no business in this
3 state during the taxable year and the taxable year was 15 days or
4 less.

5 (b) The period of time for which a corporation is not subject to
6 taxes imposed by this chapter as provided in subdivision (a) may
7 not be considered ~~as part of~~ a taxable year for purposes of
8 subdivision (e) or paragraph (1) of subdivision (f) of Section
9 23153.

10 SEC. 6. Section 24328 of the Revenue and Taxation Code is
11 amended and renumbered to read:

12 23711.5. The Golden State Scholarshare Trust, established
13 pursuant to Article 19 (commencing with Section 69980) of
14 Chapter 2 of Part 42 of the Education Code, is an instrumentality
15 of this state and the income of the Scholarshare trust shall be
16 exempt from taxes imposed under this part. The Scholarshare trust
17 is established and shall be maintained as a qualified state tuition
18 program as defined in Section 529 of the Internal Revenue Code.

